

## **UTHealth Houston Response to House Appropriations Subcommittee on Article III Formal Request for Information, Interim Charge 3**

Interim Charge 1: Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 86th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including the following:

SB 1264, which prohibits balance billing (surprise billing) and creates an arbitration system to settle disputes about balance bills. Monitor the implementation of the mediation and arbitration programs, including the establishment of a portal on the TDI website through which requests for mediation and arbitration may be submitted. Determine whether the appropriate state agencies are enforcing the prohibition on balance billing. Review the Department's rules implementing the legislation's exception for non-emergency "elective" services to determine whether the rules limit the exception to out-of-network services that a patient has actively elected after receiving a complete written disclosure. Monitor or follow up on TDI's process for selecting the provider of the benchmarking database and determine whether the database provider chosen provides the most accurate available data and its sources are transparent. Evaluate the fiscal impact of the legislation on the Employees Retirement System of Texas and the Teacher Retirement System of Texas. Review costs to the systems and savings to employees and teachers.

The Center for Healthcare Data (CHCD) at the UTHealth School of Public Health houses several large datasets that cover health care utilization for more than 65% of the Texas population. Within the CHCD, researchers work to foster research and inform the public, academia, and other constituents about health care costs and utilization with the goal of contributing to the discussion on improving efficiency, improving health outcomes for patients, and controlling health-care costs in Texas. Additionally, the Center for Health Care Research Data provides consultative and analytical services to the state of Texas and has certification as a CMS Qualified Entity.

UTHealth CHCD has provided input on SB 1264 since 2019 and looks forward to being a state resource for healthcare data analytics, consumer protection, and balance billing issues now and in the future. In mid-2019, UTHealth was approached by the Texas Department of Insurance (TDI) to share industry insights and give input on the implementation of the balanced billing provisions in SB 1264. UTHealth has also worked previously with TDI to satisfy regulation

regarding transparency in health care services and costs, in which UTHealth was able to provide TDI expertise regarding claims data, calculation and reporting logic, and benchmarking of costs. Regarding balanced billing, UTHealth provided input to TDI on the issue and the impact on the consumer and the payors. At that time, UTHealth suggested some possible approaches to address reporting and data collection and analyses to assist arbitration through the provision of in-network payments for similar services, diagnoses, and providers.

In the Fall of 2019, UTHealth was requested to respond to a survey regarding the TDI approach to implement SB 1264 – specifically UTHealth’s ability to establish a benchmark database. UTHealth submitted survey responses to TDI, but ultimately was not selected as an administrator to support the database. However, we are still interested in supporting these services for TDI and the State in the future.

As a state data center, UTHealth CHCD is uniquely positioned to provide accurate data and appropriate services for the SB1264 benchmark database.

- The CHCD is the only Qualified Entity (QE) serving the State of Texas for the purpose of supporting public health in our state. QEs are certified by the Centers for Medicare and Medicaid Services (CMS) with the expectation of providing data for transparency. The CHCD is also the only academic-based QE in the nation
- The CHCD is established within an academic setting – The Schools of Public Health at The University of Texas, and is non-profit and guided by a mission of dedication to the State of Texas and its citizens.
- The CHCD does not profit from the claims data received from contributors and the data are never sold for commercial purposes. Data are held within the strictest compliance with HIPAA and other regulations for privacy and security. Claims data are not used to reveal competitive advantages of providers or carriers. However, as a research organization, UTHealth applies the limited data set(s) for research and policy review.
- The CHCD currently holds approximately 80% of claims for insured persons within Texas and has a repository of such for a minimum of 5 years. Appointment as the data depository for SB 1264 would expand the collection to all payors in Texas. Other, national databases generally rely on select contributors (usually the large national carriers) and may not provide full representation.
- The CHCD works closely with HHSC for managed Medicaid analyses through the External Quality Review Organization, with which the CHCD is a partner, and in the SB1 Special Provisions Rider 10.06 for Cross Agency Collaboration. Thus, the CHCD regularly receives the claims data for Medicaid managed care organizations as well as Medicaid Fee-For-Service, and this data is incorporated into the claims database.
- Additionally, the CHCD receives the Medicare claims data from CMS and it is also incorporated into the claims database, expanding the claims data beyond commercial claims and representing all populations, noting that the populations (Commercial, Medicare, Medicaid) differ in terms of costs, utilization, disease, and need.
- The claims data held by the CHCD is comprehensive and includes charges as well as allowed amounts, out-of-pocket amounts to the consumer, and paid amounts from the

carrier. Other, national databases often receive only the charge or billed amounts from the carriers per carrier agreements, thus requiring the database to derive an “estimate” of paid amount through a calculation.

- The CHCD includes pharmacy data and enrollment data, thus allowing analysts and researchers to follow the course of treatment for clinical events. Additionally, the CHCD receives data from other sources, such as data linked to geographic areas that reflect social, community and environmental conditions. Enrollment data enable analysts to explore disparities, geographic variations, and potential impact of socio-economic determinants of health and healthcare access. Many national databases exclude pharmacy claims and enrollment detail and do not provide linkage to social determinant data.
- The CHCD provides other key public-health related services for the State through the use of the database, often supplying factual answers to health-related questions from state agencies or state representatives. Examples include: (1) costs related to air ambulance transports, (2) cross agency collaboration for value-based strategies, (3) costs associated with care for COVID-19, (4) immunization surveillance, and more.

As a state academic institution, without direct affiliation to providers and health plans, the CHCD would be an appropriate choice for an impartial and independent entity to provide an accurate, efficient claims database for to reduce and resolve balance billing practices. The CHCD has successfully demonstrated its expertise in claims data analyses and transparency reporting through its work with TDI, the EQRO, and the 10.06 Rider.

As a public entity, the policies, processes, and analytical approaches of UTHealth are fully transparent, thus performing public service through transparency reporting, while also respecting the concerns and challenges experienced by the providers and health plans of our state. Most importantly, SB1264 provides an opportunity to the State of Texas, and in partnership with UTHealth CHCD, to establish a comprehensive repository of claims and potentially the creation of an all-payer claims database. This complimentary opportunity should be considered carefully by the legislators. Maintaining this function within the state, through a non-profit, non-commercial, research-oriented entity could provide a long-term source for objective data for healthcare policy development, as well as a transparent resource in understanding and managing health care costs and services for Texans.